

Wm. A. Brown

UNITED STATES OF AMERICA)
)
)
 v.) No. 3:12-00172
) JUDGE TRAUGER
)
 DONALD RAY WEAVER)

COMES NOW Donald Ray Weaver, through counsel, and moves pursuant to Rules 402, 403 and 404(b) of the *Federal Rules of Evidence*, to prohibit the government from introducing before the jury any evidence of, or reference to, past or current gang membership. Such evidence includes, but is not limited to, photographs, reports, statements, testimony or any reference to gang affiliation whatsoever. Such evidence is irrelevant, prejudicial, and would not be admissible for any purpose other than to “prove the bad character” of Mr. Weaver as a person likely to commit the instant offense.

Mr. Weaver moves the Court to: (1) instruct the prosecutor and the government's witnesses in this cause not to mention, or in any way bring before the jury, past or present gang membership, as such testimony or comment would prejudice the rights of the defendant and violate the laws of the United States; and (2) instruct the prosecutor not to mention such matters, or to introduce evidence of them, without first approaching the bench and making known to the Court and defense counsel, outside the presence and hearing of the jury, that he intends to offer such proof, and allow the Court to rule out of the presence of the jury.